Supreme Court, U.S.
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No. 84-1926

In The
Supreme Court of the United States
October Term, 1984

MILTON A. REID, et al,
Petitioners,

vs.

ULYSSES GHOLSON, et al.,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF VIRGINIA

BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether the appointment by a court of equity of a commissioner in chancery to "run and oversee" a congregational meeting of the members of an independent congregational church to insure its fairness is an unwarranted breach of the principles of separation of church and state embodied in the First Amendment to the Constitution of the United States where the intervention is necessary for the protection of the civil and property rights of the members of the church and where the intervention involves no consideration of religious doctrine and practice.

2. Whether the questions presented before this Court for resolution have been mooted by a subsequent meeting of the members of the independent congregational church in question, held on July 9, 1985, and conducted by the commissioner in chancery appointed by a court of equity to "run and oversee" the meeting where litigants have agreed to the appointment of the commissioner, where no objections were raised by the litigants and members to the actions of the commissioner during and after the meeting and where the court of equity has decreed that the meeting was fair and democratic.

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STATEMENT OF THE CASE

In their Petition, Reid and his adherents ascribe more to the Supreme Court of Virginia's holding in the case than even the most aggressive reading of the opinion will support.

In affirming the Circuit Court's denial of injunction, the Supreme Court of Virginia merely ruled that the respondents (dissenters) presented a proper case for the intervention of a court of equity.

This Court should deny the Petition of Reid and his adherents not only because the Supreme Court of Virginia correctly applied settled legal principles, but because it does not present "special and important reasons" for review as required by U.S. Supreme Court Rule 17.1, U.S.C.S. Rules.

I. FACTS AND LEGAL PROCEEDINGS

As observed by the Supreme Court of Virginia[1], "in order that the issues may be seen in proper perspective, a detailed examination must be made of the facts and legal proceedings below," as shown by the record, including those which preceded the filing of this Petition and those which took place pending the Petition for Writ of Certiorari. The facts and legal proceedings set forth in the opinion of the Supreme Court of Virginia in this case (Pet. A a-2 thru a-18), decided on March 8, 1985, are adopted as the facts and legal proceedings in this brief. Since March 8, 1985, additional facts and legal proceedings have taken place as indicated below.[2]

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[1]*Reid* v. *Gholson*, 327 S.E.2d 107 (1985); (Pet. A a-2). ("Pet. ——") refers to page numbers in Reid's Petition for Writ of Certiorari to the Supreme Court of Virginia. ("Pet. A ——") refers to the opinion of the Supreme Court of Virginia in this case. In lieu of citing to the reporter, *Reid* v. *Gholson*, 327 S.E.2d 107 (1985) is cited to the pages of Petitioners' Appendix for convenience of the Court. ("Res. A ———") refers to the pages of Respondents' Appendix.

[2]Footnote number 8 of the opinion of the Supreme Court of Virginia (Pet. A a-14 to a-15), is updated as follows: On April 4, 1985, the United States Court of Appeals for the Fourth Circuit affirmed the judgment of the district court dismissing the action by reference to the principles pertaining to concurrent state litigation explained in *Moses H. Cone Memorial Hospital*, 460 U.S. at 13-19, and in *Colorado River*, 424 U.S. at 817-20.

On June 7, 1985, the adherents (petitioners) and dissenters (respondents), by their attorneys, agreed upon an approved membership list of the members of the church. (Res. A a-10). Also on that date, the parties, by their attorneys, agreed that the annual church meeting would be held on July 9, 1985, at 7:00 p.m in accordance with prior orders of the Court. (Res. A a-10). On June 11, 1985, the trial court entered an order establishing the guidelines for the July 9, 1985 annual meeting. That order was endorsed individually by one of the Petitioners, Milton A. Reid, and by Sonnie G. Cuffey, counsel for all of the Petitioners, as "*Seen and agreed to.*" [added for emphasis]. (Res. A a-5 to a-8).

On June 20, 1985, pursuant to the June 11, 1985 order of the trial court, the official meeting notice was mailed to 823 members of the New Calvary Baptist Church whose names appeared on the agreed list of members. (Res. A a-14, a-22, a-32). The official ballot for the congregational vote on July 9, 1985 was prepared by William Mazel, commissioner in chancery, from resolutions submitted to him by the adherents and dissenters, by their attorneys. (Res. A a-24). The first five resolutions were submitted by the dissenters, and the sixth resolution was submitted by the adherents. (Res. A a-24).

On July 9, 1985, all members whose names appeared on the agreed list of members were permitted to attend the annual meeting, and all members present at the meeting participated and advocated their views or were given the opportunity to participate and advocate their views. (Res. A a-4 and a-5, a-32). During the July 9, 1985 meeting, the adherents and dissenters, by their attorneys, agreed with

the commissioner in chancery that the commissioner in chancery would call the names of each member that appeared on the agreed list of members and that the members would identify themselves as members by raising their hands. (Res. A a-4 and a-5, a-32). Accordingly, a roll call was made from the agreed list of members and monitors of the meeting, who were agreed to by the adherents and dissenters, by their attorneys, gave a ballot to those persons present who identified themselves as members of the church. (Res. A a-5, a-32). Upon leaving the meeting, each member was given an opportunity to place his or her ballot in ballot boxes that were manned by monitors. (Res. A a-5, a-32). The ballot boxes containing the ballots were then sealed and signed by the commissioner in chancery and the attorneys for the adherents and dissenters. (Res. A a-19, a-32). The ballot boxes were transported to the commissioner's home by the sheriff's deputies for safe keeping. (Res. A a-19).

On July 10, 1985, at 8:00 a.m., in the commissioner's office, by prior agreement with the attorneys for the adherents and dissenters and in the presence of the respective attorneys and representatives from each group, the ballot boxes, which were still sealed, were opened. Representatives of each party individually counted the ballots and upon a complete count by one representative, the opposing party counted the ballots as well. There was no dispute as to the number of ballots and the vote. (Res. A a-19, a-32, a-33).

No objections were raised during the annual meeting of July 9, 1985 by any member present or by any of the litigants present or by any of the attorneys for the ad-

herents and dissenters to any of the actions of the commissioner in chancery. Moreover, no objections were raised during the counting of the ballots on July 10, 1985 by any of the representatives of the adherents and dissenters or by any of the attorneys of the parties to any of the actions of the commissioner in chancery. (Res. A a-18 and a-19, a-33).

However, the adherents, by their attorney, filed objections to the Eighth Report of the commissioner in chancery alleging that since the commissioner in chancery did not request from each member some type of identification or check their names from the master membership list, it was impossible for the commissioner to determine whether the people who received ballots were actual bona fide members of New Calvary Baptist Church. (Res. A a-28 thru a-30). On August 19, 1985, before the trial court entered its order ratifying, confirming and approving the Eighth Report of the commissioner in chancery, *the adherents, by their attorney, withdrew their objections to the Eighth Report of the commissioner in chancery* [*added for emphasis*]. (Res. A a-31 thru a-35). The trial court then entered its order holding that the annual meeting of July 9, 1985 was a fair and democratic meeting and that a majority of the members of the congregation of New Calvary Baptist Church, present at the meeting, had decided, among other things, that (1) the Trustee Board of the church is directed to immediately audit the financial records of the church and (2) the services of Dr. Milton A. Reid, as pastor of the church, are immediately terminated. (Res. A a-31 thru a-35).

II. THE DECISION OF THE SUPREME COURT OF VIRGINIA

The Supreme Court of Virginia affirmed the order of the Circuit Court of the City of Norfolk, Virginia, entered on December 19, 1983, denying the adherents' prayer for an injunction enjoining William Mazel, commissioner in chancery, from "interfering with the internal government and ecclesiastical affairs of New Calvary Baptist Church."

The Supreme Court of Virginia held that the dissenters have presented a proper case for the intervention of an equity court for the protection of their civil and property rights, and that such intervention does not infringe the guarantees of religious freedom contained in Article I, Section 16 of the Constitution of Virginia and the First Amendment to the Constitution of the United States.

ARGUMENT

1.

The Supreme Court of Virginia did not err in affirming the Circuit Court of the City of Norfolk, Virginia.

The petitioners (adherents) contend that the Supreme Court of Virginia did err in its ruling. The opinion of the Supreme Court of Virginia is set forth in the Appendix of Petitioners' Brief at pages a-18 thru a-34 and is adopted as the argument in this brief. That decision was based on the unrefuted evidence of the respondents. Even the dissenting opinion in that case agreed with virtually all of what the majority wrote (Pet. A a-35). The remedy af-

firmed by the majority opinion prompted the dissent. However, the lone dissent would approve the appointment by the trial court of the commissioner to be an observer of the meeting and as a reporter to the trial court as a threshold approach. (Pet. A a-39 to a-40).

But Reid and his adherents have raised new arguments before this Court. A response to these new arguments is set forth below. Also, in view of the fact that since this appeal, the parties have agreed to the appointment of the commissioner and have withdrawn their exceptions to the commissioner's report concerning the church meeting of July 9, 1985, the issue of mootness will be addressed in this response.

The adherents' contention before the Supreme Court of Virginia was that any judicial inquiry into "church governance," and particularly the appointment of a court officer to "run and oversee" a church meeting, is in itself an unwarranted intrusion by the civil authority into an ecclesiastical area constitutionally exempt from state control. (Pet. A a-22). The adherents now argue that the Circuit Court of the City of Norfolk, Virginia may have exercised more control over church administration than "any court in the history of American [J]urisprudence" in violation of the Free Exercise Clause of the First Amendment. (Pet. A a-14 and a-15). Both arguments, extreme as they are, require analysis in light of the distinction between hierarchical and congregational churches.[3]

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[3]The term "hierarchical" includes "supercongregational" and "connectional" churches. "Congregational" includes "independent" churches, and is used here to describe a religious organization which is governed only by its own congregation and is not subject to any external control. (Pet. A a-33).

II.

Court Intervention is appropriate as found by both the majority and dissenting opinions of the Supreme Court of Virginia

New Calvary Baptist Church is not part of an hierarchical church which has established rules for discipline and internal government that have been promulgated as matters of faith. If it were, civil courts would treat a decision by its governing body or internal tribunal of its hierarchical church as an ecclesiastical determination constitutionally immune from judicial review. (Pet. A a-23 to a-24); *Serbian Eastern Orthodox Diocese,* 426 U.S. 724,725 (1976); See also *Green v. Lewis,* 221 Va. 547, 272 S.E.2d 181 (1980).

The unrefuted evidence reveals that New Calvary Baptist Church is a "congregational church" with no written constitution or by-laws or internal rules which prevent that church from being governed by the will of the majority of its members in a fairly-conducted congregational meeting held after proper notice to the membership. (Pet. A a-2). Under such circumstances, members of a congregational church, such as New Calvary Baptist Church, can seek the protection of an equity court for the purpose of obtaining a fairly-conducted meeting because there is no body of ecclesiastical law to invoke, no internal tribunal to appeal to (Pet. A a-26); *Abyssinia Missionary Baptist Church v. Nixon,* 340 So.2d 746 (Ala. 1976); *Holiman v. Dovers,* 236 Ark. 211, 366 S.W.2d 197, supp. op. on rel'q., 236 Ark. 460, 366 S.W.2d 203 (1963); *Atkin v. Walker,* 284 N.C. 306, 200 S.E.2d 641 (1973); *Clough v. Wilson,* 170 Conn. 548, 553, 368A.2d. 331, 334 (1976).

The adherents argue, in support of their "too intrusive" contention, that the Circuit Court of the City of Norfolk has, *inter alia,* arrogated unto itself the power to declare special meetings of New Calvary Church's congregation "void and illegal." Contrary to their present argument, the adherents conceded earlier that the Circuit Court of the City of Norfolk can enjoin and set aside an illegal meeting.[4]

III.

The Court's intervention, which was based on neutral principles of law, was not too intrusive.

The adherents further argue that the guidelines set forth in the order of the Circuit Court of the City of Norfolk, Virginia, entered on March 7, 1984, (Pet. A a-81 thru a-89), are likewise "too intrusive." However, a close examination of those guidelines reveals that they are based on neutral principles of law—the right to reasonable notice, the right to attend and advocate one's views, and the right to an honest count of the votes—applicable not only to religious bodies, but to public and private lay organizations and to civil governments as well.[5] (Pet. A a-26 and a-27). . . . "[T]he First Amendment does not dictate that a state must follow a particular method of resolving church property disputes. Indeed, a "state may adopt any one of various approaches for settling church property disputes so long as it involves no consideration of doctrinal matters, whether the ritual and liturgy of worship or the tenets of

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[4]Hearing, held on March 6, 1984, in the United States District Court for the Eastern District of Virginia, Norfolk, Division, Civil Action No. 84-114-N. (Pet. A a-14).

[5]The guidelines set forth in the order of March 7, 1984 are substantially the same as the guidelines set forth in the order of June 11, 1985. Compare (Pet. A a-81) with (Res. A a-32).

faith." *Jones v. Wolf,* 443 U.S. 595 (1979); citing *Maryland & Virginia Churches,* 396 U.S., at 368, (1970).

Finally, while conceding that the trial court might properly appoint a commissioner to attend a congregational meeting as an observer, with authority to report to the court thereafter, the adherents contend, however, that authorizing the commissioner to "run and oversee" the meeting is too intrusive an assertion of judicial power into the exercise of religion to comport with the constitutional guarantees. (Pet. A a-30). The evidence discloses, as found by the Supreme Court of Virginia (Pet. A a-32 to a-33), that for several years the bitterness of the dispute has precluded the parties from naming some impartial person to preside at a congregational meeting. The Supreme Court of Virginia found that "Reid and his adherents have established a consistent track record of truculent defiance, not only toward the dissenters, but also toward all judicial proceedings that have affected them." The Court went on to say that "there is no requirement that the court restrict its intervention to the obviously futile exercise of appointing an observer, receiving his report, invalidating a meeting, appointing another observer, receiving his report, invalidating another meeting, *ad infinitum.*"

IV.

The petitioners' appeal has been mooted.

Based on the conduct of petitioners, the issue presented in this appeal is no longer "live" nor do petitioners have a legally cognizable interest in the outcome of this litigation.

Reid and his adherents agreed to the time and date of the annual congregational meeting which was held on July 9, 1985 at 7:00 p.m. (Res. A a-10); they agreed to the membership list which determined who could participate and vote in the meeting (Res. A a-10). Petitioners, by counsel, endorsed the court order of June 11, 1985 as "seen and agreed to" before the order was entered by the trial judge—that court order established guidelines for the July 9, 1985 meeting and directed the commissioner to supervise and report on the meeting. (Res. A a-5 to a-8). Petitioners submitted resolutions that were included on the ballot (Res. A a-24); they attended the July 9, 1985 meeting and participated and advocated their views and voted (Res. A a-4, a-5, a-32); they made no objections to any of the actions taken by the commissioner during the meeting (Res. A a-18, a-19, a-33); they participated in the counting of the ballots (Res A a-19, a-32, a-33); and they withdrew, in open court, all of their objections to the commissioner's report recommending, among other things, that the meeting was fair—all this before the trial court entered its order which ratified, confirmed and approved the report, and which decreed that the meeting was fair and democratic.

In light of the intervening circumstances as set forth above, there is no longer a controversy between the parties and the issue is moot. The Petitioners agreed to all of the components of the Circuit Court's order of August 19, 1985 before it was entered, withdrawing all exceptions to the commissioner's report. Petitioners' consensual acts are tantamount to a consent judgment which moots this appeal. *J. Avon & Co. v. Mississippi Shipping Co.* 361 U.S. 115 (1959); *Vernet v. Oil Transport Co.*, 365 U.S. 768 (1961).

See also, *Amalgamated Assoc., etc. v. Wisconsin Employment Relations Board,* 340 U.S. 416 (1951), where a controversy concerning the validity of an arbitrator's award was held moot because the award was superseded by an agreement of the parties.

It is a fundamental principle of appellate review that courts will not consider an appeal that has become moot except in the most extraordinary of circumstances. *Graffam v. Wray,* 437 A2d 627 (Me. 1981). There are no extraordinary circumstances to warrant review of this case in the face of mootness. This case is not saved from mootness by the "capable of repetition, yet evading review" doctrine. This Court has held that in the absence of class action, the "capable of repetition, yet evading review" doctrine is limited to the situation where two elements combined: (1) the challenged action was in its duration too short to be fully litigated prior to its cessation or expiration, and (2) there was a reasonable expectation that the same complaining party would be subjected to the same action again. *Sosna v. Iowa,* 419 U.S. 393 (1975).

The two elements in *Sosna v. Iowa, supra,* are not present in this case. First, this litigation has been ongoing in the state and federal courts since November, 1982 (Pet. A a-4) and has been fully litigated. Second, there is no reasonable expectation that the petitioners will be subjected to the same action again because they are no longer officers of the church. (Res. A a-33, a-34).

Accordingly, respondents believe the aforesaid considerations compel dismissal of this appeal for mootness.

———o———

CONCLUSION

For all the foregoing reasons, the Petition for Certiorari of Reid and his adherence should be denied.

Respectfully submitted,

/s/ GWENDOLYN JONES JACKSON
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APPENDIX

APPENDIX A

UNITED STATES COURT OF APPEALS

For The Fourth Circuit

No. 84-1257

Dr. Milton A. Reid, as pastor, and Lillian M. Brinkley, Biscoe Boddie, St. Paul Lewis and Brenda H. Andrews, as Officers and/or Members of the New Calvary Baptist Church, Norfolk, Virginia; Dr. Curtis W. Harris, as Moderator of the Bethany Baptist Association of Southside Virginia; Dr. Ronnie Joyner, as President of the Tidewater Metro Baptist Ministers Conference; and Bishop Thomas Talley, as President of the Virginia Black Pastors Conference,

Appellants,

versus

Honorable William Mazel, as Commissioner in Chancery of the Circuit Court of the City of Norfolk, Fourth Judicial Circuit of Virginia,

Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. J. Calvitt Clark, Jr., District Judge. (C/A 84-114-N)

Argued: May 8, 1984 Decided: April 4, 1985

Before PHILLIPS and CHAPMAN, Circuit Judges, and BUTZNER, Senior Circuit Judge.

William M. Kunstler (Betty Lawrence Bailey; James F. Gay on brief) for Appellants; John A. Gibney, Jr., Assistant Attorney General (Gerald L. Baliles, Attorney General of Virginia on brief) for Appellee.

PER CURIAM:

The pastor, officers, and other officials of the New Calvary Baptist Church, Norfolk, Virginia, appeal from the district court's order dismissing their action brought under 42 U.S.C. § 1983 challenging the constitutionality of a state court's injunctive decree appointing a commissioner to oversee the annual meeting of the church congregation. The narrow relief ultimately sought on appeal is a stay of the state court decree pending resolution by the Supreme Court of Virginia of the decree's constitutionality. We found no circumstances justifying an immediate stay, but we retained jurisdiction. *See* Reid v. Mazel, No. 84-1257 (4th Cir. May 10, 1984) (order). We now affirm the district court's judgment of dismissal.

The Supreme Court of Virginia recently decided Reid v. Gholson, 1, VLR 1001, 229 Va. — (1985). That appeal arose out of the same protracted dispute between two factions in the New Calvary Church. While recognizing that the role of the judiciary in resolving congregational disputes is narrowly circumscribed by state and federal constitutional guarantees of religious freedom, the Virginia Supreme Court held that the state trial court did not exceed its proper sphere and that the authority vested in the commissioner did not infringe those guarantees.

Because the Supreme Court of Virginia has ruled on the constitutional issue, there is no longer any need for a stay of the state decree pending that court's decision. Moreover, we find no reversible error in the district court's dismissal of the action.

Ordinarily federal courts are obliged to exercise the jurisdiction conferred on them. Nevertheless, in exceptional circumstances, a federal court may decline to exercise jurisdiction over a controversy that concurrently is being litigated in a state court. *See generally* Moses H. Cone Memorial Hospital v. Mercury Construction Corp., 460 U.S. 1, 13-19 (1983); Colorado River Water Conservation District v. United States, 424 U.S. 800, 817-20 (1976). This case presents exceptional circumstances permitting dismissal. The core of the dispute involves the administration of the church's property. Before this action was filed, the state court had assumed jurisdiction over this dispute and appointed a commissioner with broad powers to facilitate its resolution by the congregation. The state decree raised federal constitutional issues. But it also involved questions pertaining to the authority of the commissioner whose resolution required resort to state law and the state constitution. Indeed, before this action was instituted, the Supreme Court of Virginia had been asked to reverse the decree. These circumstances justified the district court's refusal to entertain relitigation of the issues that were currently pending on review in the Supreme Court of Virginia. *See Colorado River,* 424 U.S. at 818-19.

The Virginia Supreme Court has decided the constitutional questions underlying this appeal. Any further

relief desired by the parties should be sought from the state courts as the litigation progresses or by review of the state decision in the United States Supreme Court. Therefore, we affirm the judgment of the district court dismissing this action.*

AFFIRMED.

*In an oral opinion required by the exigencies of time, the district court based its decision on *res judicata* and abstention. Although application of these theories may be questionable, the judgment dismissing the action may be sustained by reference to the principles pertaining to concurrent state litigation explained in *Moses H. Cone Memorial Hospital,* 460 U.S. at 13-19, and *Colorado River,* 424 U.S. at 817-20.

APPENDIX B

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK
IN CHANCERY NO. C-83-1705

ULYSSES GHOLSON and
FLOYD LEWIS, et al,

Complainants.

vs.

MILTON A. REID, et al,

Defendant.

O R D E R

This cause came on this day to be heard upon the pleadings duly filed; upon the evidence heard ore tenus by the Court; upon the Decree of Reference to William Mazel, Commissioner in Chancery of this Court, dated October 27, 1983; upon hearings before the Court on April 11, 1985; May 23, 1985, and May 31, 1985, wherein evidence was taken ore tenus; upon a hearing before the Court by the attorneys of record on the 11th day of June, 1985; upon the Notice of hearings before the Commissioner in Chancery on May 14th, 1985 and June 7, 1985; upon said hearings; upon notice to all parties; and was argued by counsel.

And it appearing to the Court that the previous Order of the Court entered on the 27th day of October, 1983, is proper and correct, it is

ADJUDGED and ORDERED:

1. That the annual meeting of the membership of the New Calvary Baptist Church shall be duly called and held on the 9th day of July, 1985, at 7:00 p.m. at such reasonable place as the Commissioner deems satisfactory for the holding of such meeting. The said meeting shall be supervised and reported on by the Commissioner in Chancery to whom this matter was referred to oversee a proper and fair meeting.

2. That voting members of the congregation shall be over the age of eighteen years.

3. That the defendants shall cooperate with the Petitioners to verify the authenticity of the list of members submitted to the Court as the membership list of the New Calvary Baptist Church, effective on November 30, 1983.

4. That the complainants' shall have an opportunity toreview said list and to object to any alleged member thereon, which objection shall be sustained or overruled by the Commissioner in Chancery.

5. That the parties shall furnish the Commissioner in Chancery, within a reasonable time as set by the Commissioner in Chancery, a draft of a written notice, which notice as approved by the Commissioner in Chancery, will be mailed to all members of the congregation under the signature of the Commissioner in Chancery, setting forth the following information:

(a) The date, time and place of said meeting;

(b) The business to be brought before the meeting, including copies of proposed resolutions;

(c) That only members, as of November 30, 1983, and eighteen years of age, or older, shall be authorized to attend and vote at said meeting;

(d) That no proxy voting shall be permitted at said meeting;

(e) That each member of the congregation shall have a right to speak on each motion if they so elect, but such discussion shall be limited to five minutes per person;

(f) That the meeting shall be conducted under the supervision of William Mazel, Commissioner in Chancery;

(g) That all voting will be made by a secret ballot.

6. That a notice with resolutions attached shall be mailed by the Commissioner in Chancery not less than fourteen days or more than twenty-one days before the meeting to all members of the congregation having a right to vote and attend the meeting.

In addition, the notice may be read on the prior two Sundays at church services.

7. That the complainants and the defendants shall submit to the Commissioner in Chancery, not later than Friday, June 14, 1985, at 5:00 p.m., in writing, a copy of all resolutions desired to be brought up at such meeting, and that no resolution or motions shall be made at this meeting other than previously placed on the agenda in the call of the meeting.

8. That the Commissioner in Chancery shall be authorized to select a person to preside at said meeting and that if such a person is not selected the Commissioner in

Chancery shall be authorized himself to preside at said meeting.

9. That except as herein provided, the generally accepted rules of order shall be those set forth by Robert's Rules of Order, as amended.

10. That each member of the congregation shall have a free right to speak at said meeting, but such right of speech shall be limited to five minutes per person per resolution.

11. That the Commissioner in Chancery is authorized to select tellers to assist in the count of the votes.

12. That said meetings shall be held in a suitable place as determined by the Commissioner in Chancery.

13. That the Commissioner in Chancery shall have the authority that if the meeting is not concluded at the time and place stated, to adjourn the meeting to such other time and place as in his discretion he deems necessary and that said meeting shall then continue on at such future time and place until all resolutions on the agenda are acted upon.

14. That after the meeting or meetings, the Commissioner in Chancery shall forthwith report to the Court his findings.

ENTER this 11th day of June, 1985.

I ask for this
/s/ Edward Delk
Counsel for
Complainants

/s/ Milton A. Reid

Seen and agreed to
/s/ Sonnie G. Cuffey

/s/ Alfred W. Whitehurst
Judge

A Copy, Teste:
Hugh L. Stovall, Clerk

/s/ By: M. K. Collins, D.C.

APPENDIX C

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

IN CHANCERY NO. C83-1705

ULYSSES GHOLSON, et al,

Petitioner,

vs.

MILTON A. REID,

Defendant.

SIXTH REPORT OF WILLIAM MAZEL
COMMISSIONER IN CHANCERY

The undersigned, William Mazel, Commissioner in Chancery, to whom this matter was referred by decree of this Court entered on October 27, 1983, respectfully reports to the court as follows:

Your Commissioner reports that pursuant to an agreement of counsel, the attorney for Ulysses Gholson, et als and the attorney for Milton A. Reid, et als to-wit Edward Delk and Sonny G. Cuffee, respectfully, met in Courtroom 7 of this court on June 7, 1985 to discuss any objection, and to determine who are the members of the New Calvary Baptist Church according to the Court's Order.

At the meeting Edward Delk, representing the Petitioner set forth a written objection to the membership list of the New Calvary Baptist Church, a copy of which is attached to this report. *Mr. Delk advised the Court that he accepted all of the names listed on the membership list*

of the New Calvary Baptist Church as furnished to the Court previously with the exceptions of the following:

1. The names of those members who are under the age of eighteen years.

2. The names of all inactive members.

3. The names of all members who joined the church after November 30, 1983.

4. The names of members who joined other churches.

5. The names of deceased members.

Mr. Delk then pointed out to the court and to the Defendant's counsel by marking on the list in yellow those persons who are objectionable and not being qualified members to vote. In addition thereto a list was furnished with the membership list entitled *"Inactive members"* and M. Delk objected to all those alleged members.

The Defendants, by counsel agreed to the objections of the Petitioners. The Commissioner, without objection by the Defendants, filed as Complainant's Exhibit Number One, the list as marked and indicated into the record.

The Petitioners, by counsel proposed a meeting be held on July 9, 1985, Thursday at 7:00 p.m. in accordance with prior orders of the Court. The Defendants' counsel agreed to the time and date of the meeting.

By decree of the court entered on June 11, 1984 the finding of the Commissioner in Chancery at the prior hearing has been approved. Arrangements have been made to hold the meeting in accordance with the Court's orders. The Petitioners, by counsel advised the Commissioner that they would furnish the necessary funds for the mailing and printing of a notice as required by the Court.

Respectively submitted this 14th day of June, 1985.

/s/ WILLIAM MAZEL
Commissioner in Chancery

In accordance with Rule 2:18 of the Supreme Court of Virginia, as amended, your Commissioner did, on June 14, 1985, by mail, notify Edward Delk, Esquire, Attorney for the Complainant and Sonny Cuffey, Esquire. Attorney for the Defendants, that the foregoing report would be filed in the Clerk's office of the Circuit Court of the City of Norfolk, Virginia on this date.

/s/ WILLIAM MAZEL
Cimmissioner in Chancery

APPENDIX D

WINSTEAD, JONES & MELVIN, P.C.
Attorneys & Counsellors At Law
207 West Brambleton Avenue
P.O. Box 2472
Norfolk, Virginia 23501
(804) 625-4100

James A. Winstead
Waverly W. Jones, Jr.
Kenneth R. Melvin
Sonnie G. Cuffey
Joseph C. Lindsey

Portsmouth Office:
601 Dinwiddie Street
Portsmouth, Virginia 23704
(804) 397-1009
Smithfield Office:
7 Welcome Alley
Smithfield, Virginia 23430
(804) 357-7744
Reply to:

June 14, 1985

William Mazel, Esquire
Special Commissioner
Plaza One Building
Norfolk, Virginia 23451
Re: Gholson, et al v. Reid, et als

Dear Mazel:

The following is a list of resolutions proposed by the defendants herein:

1. Resolved that Dr. Milton A. Reid shall remain as minister of New Calvery Baptist Church.
2. *Resolved that the present officers and staff of the church shall remain in office for the remainder of the Church's fiscal year or until they are removed by a duly called church meeting.*
3. Resolved that the fees and cost conducting the church meeting be borne by the plaintiff's herein.
4. Resolved that at the church meeting scheduled for July 9, 1985 there shall be a fifteen (15) min-

ute Devotional period conducted by non-church members beginning promptly at 7:00 p.m. and ending promptly at 7:15 p.m.

5. Resolved that all members entitled to vote at the church meeting shall be verified by their drivers licenses, or if they have none, then their identity shall be verified by church monitors selected by the Special Commissioner.

6. Resolved that the audit report of church finances prepared and published heretofore be approved.

7. Resolved that all business conducted by the Church since January 1983 be mandated as duly authorized business of the church is hereby affirmed.

Mr. Mazel June 14, 1985

If you have any questions, please do not hesitate to contact me.

Yours truly,
Sonnie G. Cuffey

SGC/jse
cc: Dr. Milton A. Reid

APPENDIX E

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

IN CHANCERY NO. C83-1705

ULYSSES GHOLSON, et al,

Petitioners,

vs.

MILTON A. REID,
Defendants.

EIGHTH REPORT OF WILLIAM MAZEL COMMISSIONER IN CHANCERY

The undersigned, William Mazel, Commissioner in Chancery, to whom this matter was referred by decree of this Court entered on October 27, 1983, respectfully reports to the Court as follows:

Your Commissioner reports that on June 20, 1985 pursuant to the Court Order, the official meeting notice was mailed to 823 members of the New Calvary Baptist Church. A copy of this notice is attached hereto.

Your Commissioner has received from the United States Postal Office twenty three envelopes indicating that the addresses were incorrect. Upon receipt of the returned envelopes your Commissioner notified both counsels of the name of the addressee who did not receive a notice in the mail. The individuals who did not receive notices in the mail were: Emmie L. Adams, Robert Alston, Lossie Anderson, Luther Anthony, Tawanda A. Bland, Sharolyn A. Buckner, Helen M. Carr, Vanessa C. Cox, John R. Crawley, Welton Custis, Lula Davis, Lucinda Felton, Melvin O. Hart, Joel L. Hathaway, Louise W. Hud-

son, Donna M. Johnson, Irene L. McGlone, Hattie Michael, Michelle Reid, Joyce C. Stinson, Alman Tottle, Bette White, Fannie D. White. The Commissioner agreed to remail the notices. However, neither party furnished the Commissioner with correct addresses.

Attached hereto is a copy of the official ballot for the congregational vote on July 9, 1985.

The cost of printing and mailing 823 notices and printing of sufficient ballots for the meeting was $322.49. The Petitioners furnished the Commissioner in Chancery $400.00 to defray this cost. Your Commissioner has attached to a copy of this report to Edward Delk, Attorney for the Petitioners, a net refund check for $77.51.

On June 26, 1985 at 2:00 p.m., by pre-arranged agreement, the Commissioner met with Eward Delk, Esquire at the church. Mr. Cuffey was scheduled to attend the meeting. After a one-half hour wait, the Commissioner, Mr. Delk and Mr. Gholson entered the church to view the physical facilities. Mr. Cuffey later called the Commissioner to apologize on his inability to attend the meeting due to personal matters.

Enclosed herewith is a copy of a letter dated July 1, 1985 mailed to both counsels requesting that the church be available by 6:00 p.m. to set up a procedure for verifying the attendees as bona fide members of the church.

On July 3, 1985, Mr. Cuffey advised me by telephone that his client disagreed with the 6:00 p.m. time. It was then understood that Reverend Milton A. Reid would hold a prayer meeting on July 9, 1985 and the congregation would vacate the building on or about 6:30 p.m.

On July 9, 1985 the Commissioner arrived at the church at 6:20 p.m. the prayer meeting was in effect. At 6:30 p.m. the congregation did not vacate the church. The prayer meeting ended at 6:50 p.m. The congregation then vacated the church. A substantial number of members were already waiting on the sidewalk or in the foyer to enter the church.

Acting as monitors by agreement of both parties were the following individuals:

Feneca J. Carter 2064 Millville Road Chesapeake, Virginia 23323	A. C. Russel 935 Albert Avenue Norfolk, Virginia 23513
Lucius Walker, Jr. 615 Piermont Road Demarest, New Jersey 07627	Sylvester Brown 1909 Laigh Road Portsmouth, Virginia 23701
William Collins, Jr. 4263 Cove Way Marietta, Georgia 30067	Ned Wardrick 1119 Railroad Avenue Chesapeake, Virginia 23324
Sarah R. Gilchrist 863 Clairfield Avenue Chesapeake, Virginia 23320	Matthew Paige Post Office Box 25 Norfolk, Virginia 23501
Authony Moses 821 A Avenue Norfolk, Virginia 23504	Edward H. Smith, Jr. 977 Wolcott Avenue Norfolk, Virginia 23513

In the presence of both counsels, the Commissioner instructed the monitors as follows:

a) Four monitors would be seated in the foyer, two at a table, and two at a second table. The official membership list was divided by A - L and M - Z. The monitors were instructed to mark off each member's name as he or she entered the church sanctuary.

b) The remaining monitors were stationed at the other entrances-exits to prevent persons from entering the sanctuary.

The Commissioner instructed the monitors to allow persons to enter the sanctuary from the foyer only and to prevent persons from entering the sanctuary from non-designated entrances.

The crush of members desiring to enter the church, the limited space in the foyer, even with the assistance of the two deputy sheriffs, the monitors were unable to control the attendees. After approximately twenty minutes, the Commissioner consulted with both counsels.

With the agreement of both counsels, the Commissioner authorized all attendees to enter the church sanctuary. It was also agreed, that prior to the distribution of the ballots, a roll call will be made wherein each bona fide member would raise his or her hand for identification.

The lower level of the sanctuary was filled and all standees were asked to be seated in the balcony.

The Commissioner introduced himself, explained the purpose of the meeting, the right to speak and the procedure. A court reporter was present from the time the Commissioner entered the sanctuary to the end of the meeting.

The Commissioner read each resolution requesting any members of the congregation to speak for or against the resolution. When no member of the congregation desired to speak on the resolution, the Commissioner then moved to the next following resolution and so on until all six resolutions were discussed by the members of the

congregation. The five (5) minute time limit was generally enforced.

After all members desiring to speak having spoken, the monitors were instructed to distribute the ballots upon a roll call with the member indicating his or her presence when his or her name was called. The Commissioner again verified with counsels that the roll call would occur.

The Commissioner in Chancery read the names of all members on the approved list of members of the congregation. As each member's name was read, the members raised his or her hand and received a ballot. Upon completion of the reading of the roll, the monitors were instructed to have a ballot box at the four exits of the sanctuary, three on Wide Street and one on Virginia Beach Boulevard. The unused ballots were returned to the Commissioner. Whereupon the members of the congregation upon exiting from the sanctuary dropped their ballot into one of the four ballot boxes.

Five attendees, appeared before the Commissioner indicating that they did not hear their names called and did not receive a ballot. Upon verification that they were bona fide members as shown on the membership list, each was given a ballot.

Three persons requested that they were members but their names were not called. As these persons were not listed on the official membership list, they were not given a ballot.

At no time during the roll call, or during the balloting, after the balloting, when the ballot boxes were sealed and signed, when the ballot boxes were opened, when the ballots

were counted did either counsel or litigent or member or monitor complain or indicate any objection to the procedure or challenge any person's right to vote.

The four ballot boxes were then sealed in the presence of both attorneys and various parties representing the petitioners and the defendants. All four ballot boxes, after sealing were signed by both attorneys and the Commissioner in Chancery. The four ballot boxes were transported to the Commissioner's home by the deputies for safe keeping.

On October the 10th, 1985 at 8:00 a.m., in the Commissioner's office, by prior agreement with the attorneys for each party and in the presence of the respective attorneys and representatives from each group, the ballot boxes which were still sealed, were opened. Representatives of each party individually counted the ballots. Upon a complete count by one representative, the opposing party counted the ballots as well. There was no dispute as to the number of ballots and the vote. Your Commissioner respectively reports as follows:

1. Resolution number one calling for a financial audit of the church was "For"—342, "Against"—226; passed.

2. Resolution number two calling for the termination of Reverend Reid's services at the church, the vote was "For"—321, "Against"—246; passed.

3. Resolution number three provided that the finances of the church be placed in the charge of the trustee board, "For"—341 "Against"—229; passed.

4. Resolution number four, nomination and election of Steve Simmons as chairman of the Deacon Board, "For"—331, "Against"—236; passed.

5. Resolution number five for the nomination and election of Edward Davis as Vice-Chairman of the Deacon Board, "For"—329, "Against"—237; passed.

6. Resolution number six that the present officers and staff of the church remain in office for the remainder of the church's fiscal year, "For"—39, "Against"—525; failed.

Five hundred and seventy-four (574) ballots were cast. An actual count of the ballots printed indicated that 576 ballots were distributed. Attached hereto as part of the report are all the ballots cast in the New Calvary Baptist Church meeting on July 9, 1985.

Your Commissioner recommends that a fair meeting was held on July 9, 1985 for the New Calvary Baptist Church. The meeting was in accordance with the orders of the Court.

Your Commissioner further reports that the court reporter has the names of all persons speaking at the meeting in addition to other information and activities which occured at the meeting.

Respectfully submitted this 12th day of July, 1985.

/s/ WILLIAM MAZEL
Commissioner In Chancery

In accordance with Rule 2:18 of the Supreme Court of Virginia, as amended, your Commissioner did, on July 12, 1985, by mail, notify Edward Delk, Esquire, Attorney for

the Complainant and Sonnie G. Cufey, Attorney for the Defendants, that the foregoing report would be filed in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia on this date.

/s/ WILLIAM MAZEL
Commissioner In Chancery

APPENDIX F

NEW CALVARY BAPTIST CHURCH
800 East Virginia Beach Boulevard
Norfolk, Virginia 23504

NOTICE OF ANNUAL MEETING OF MEMBERS

Norfolk, Virginia
June 20, 1985

To the Members of New Calvary
Baptist Church:

NOTICE IS HEREBY GIVEN, that pursuant to Orders of the Circuit Court of the City of Norfolk, Virginia, entered on January 31, 1984 and June 11, 1985, in Chancery No. C83-1705, the annual meeting of the members of New Calvary Baptist Church will be held in the sanctuary of New Calvary Baptist Church at 800 East Virginia Beach Boulevard, Norfolk, Virginia 23504, at 7:00 p.m. on Tuesday, July 9, 1985, for the purpose of considering and voting upon the following matters:

1. RESOLVED, that the Trustee Board of New Calvary Baptist Church is directed to immediately audit the financial records of New Calvary Baptist Church and be empowered to employ an accounting firm to assist them, if needed, and that the Board be further empowered to take all proper and legal actions necessary to obtain possession of and/or information pertaining to said financial records.

2. RESOLVED, that the services of Dr. Milton A. Reid, as pastor of New Calvary Baptist Church, be terminated effective upon the adoption of this resolution.

3. RESOLVED, that the Trustee Board of New Calvary Baptist Church be placed in charge of the finances of the church in addition to their other duties.

4. Nomination and election of Steve Simmons to serve as Chairman of the Deacon Board.

5. Nomination and election of Edward Davis to serve as Vice Chairman of the Deacon Board.

6. Resolved that Dr. Milton A. Reid shall remain as minister of New Calvary Baptist Church.

7. Resolved that the present officers and staff of the church shall remain in office for the remainder of the church's fiscal year or until they are removed by a duly called church meeting.

Subject to correction and approval of the undersigned, the following matters may be voted on at the meeting:

8. Resolved that the audit report of church finances prepared and published heretofore be approved.

9. Resolved that all business conducted by the church since January 1983 be mandated as duly authorized business of the church is hereby affirmed.

Only those members of record on November 30, 1983 and eighteen years of age, or older, will be authorized to attend and vote at said meeting.

No proxy voting will be permitted at the meeting.

Each member of the congregation will have a right to speak on each motion if he/she so elects, but such discussion shall be limited to five minutes per person.

The meeting will be conducted under the supervision of William Mazel, Commissioner in Chancery, who has the authority that if the meeting is not concluded at the time and place stated, to adjourn the meeting to another time or place in his discretion; that the meeting will then continue on until all resolutions on the agenda are acted upon.

All voting will be made by secret ballot.

No other resolutions or motions can be made at the meeting.

/s/ William Mazel, Commissioner in Chancery
by Order of the Circuit Court of the
City of Norfolk, Virginia

APPENDIX G

NEW CALVARY BAPTIST CHURCH

Official Ballot

YOU MAY VOTE FOR OR AGAINST OR NOT VOTE, FOR THE FOLLOWING RESOLUTIONS. VOTE BY MARKING AN "X" ON THE SPACES BELOW.

1. RESOLVED, that the Trustee Board of New Calvary Baptist Church is directed to immediately audit the financial records of New Calvary Baptist Church and be empowered to employ an accounting firm to assist them, if needed, and that the Board be further empowered to take all proper and legal actions necessary to obtain possession of and/or information pertaining to said financial records.

   FOR ——— AGAINST ———

2. RESOLVED, that the services of Dr. Milton A. Reid, as pastor of New Calvary Baptist Church, be terminated effective upon the adoption of this resolution.

   FOR ——— AGAINST ———

3. RESOLVED, that the Trustee Board of New Calvary Baptist Church be placed in charge of the finances of the church in addition to their other duties.

   FOR ——— AGAINST ———

4. Nomination and election of Steve Simmons to serve as Chairman of the Deacon Board.

   FOR ——— AGAINST ———

5. Nomination and election of Edward Davis to serve as Vice Chairman of the Deacon Board.

   FOR ——— AGAINST ———

6. RESOLVED that the present officers and staff of the church shall remain in office for the remainder of the

church's fiscal year or until they are removed by a duly called church meeting.

FOR ——— AGAINST ———

APPENDIX H

WILLIAM MAZEL
Attorney And Counselor At Law

705 One Main Plaza East
Plume Street &
St. Paul's Blvd.
Norfolk, Virginia 23510-2283
(804) 622-1909

July 1, 1985

Sonnie G. Cuffey, Esquire
207 West Brambleton Avenue
Post Office Box 2472
Norfolk, Virginia 23501

Edward Delk, Esquire
305 Greater Norfolk Plaza
555 Fenchurch Street
Norfolk, Virginia 23510-2883

In re: Ulysses Gholson, et al versus
Milton A. Reid, et al

Gentlemen:

On June 26, 1985 at approximately 2:00 p.m. I viewed the sanctuary and the premises of the New Calvary Church in anticipation of the congregational meeting to be held on July 9, 1985 at 7:00 p.m.

In viewing the sanctuary I noticed that there were six entrances into the sanctuary. The assembly room which is closed off by a drawn curtain allows entry, two entries from Wide Street directly into the sanctuary, one main entry from Wide Street into the foyer of the sanctuary, an entry directly from Virginia Beach Boulevard into the sanctuary and an entry from the rear of the pulpit.

In order to maintain control over the persons entering the sanctuary as voting members of the congregation it will be necessary to block off certain entrances. The only entrance that will be used for admission to the sanctuary will be the entrance through the double doors on Wide Street. The balcony will not be used for voting members until the downstairs area is filled. The assembly room will

not be used for the membership unless the entire sanctuary is filled.

Consequently the two entrances directly into the sanctuary from Wide Street will not be utilized, the entrance from Virginia Beach Boulevard into the sanctuary will not be utilized and the entrance to the sanctuary from the pulpit will not be utilized. Arrangements will be made to have tellers at the main entrance with a copy of the membership list checking off the names of the persons entering the church as voting members of the congregation.

As there is a potential of a substantial number of persons attending the meeting, the tellers and myself will be present at the sanctuary at 6:00 p.m. on July 9. Consequently the sanctuary should not be available to any other activity except the congregational meeting. It will be necessary that the lights are on, the airconditioning is used depending upon the weather, and a public address system will be needed including a microphone. I will bring with me two boxes to contain the secret allots which will be used when the vote is taken.

Should I receive any additional returned mail from the initial mailing I will notify each of you.

It is my understanding there are both men and ladies restrooms within the sanctuary and the congregants need not leave the sanctuary during the discussion or during the time of voting.

I would anticipate that the ballot boxes will be sealed and taken with me to be opened up on July 10, 1985 at my office in the presence of both attorneys and representatives of the Complainant and the Defendant. At that time the vote will be counted and the Commissioner in Chancery will report to the Court.

If either of you have any questions regarding this matter please contact me.

Sincerely yours,
/s/ William Mazel

WM/maj
L-GHOL

The following is a list of the names and addresses in which I attempted to mail the notice of the meeting and the envelope was returned to me by the post office.

Anthony, Luther
939 Reservoir
Norfolk, Virginia 23504

Carr, Helen M.
940 Marshall Avenue
Norfolk, Virginia 23504

Crawley, John R.
2528 Cary Street
Norfolk, Virginia 23504

Custis, Welton
2427 Maple Avenue
Norfolk, Virginia 23504

Johnson, Donna M.
511 Ashlawn Drive #4
Norfolk, Virginia 23503

Reid, Michelle
835 Grosvenor Court N
Virginia Beach, Virginia
23462

APPENDIX I

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

IN CHANCERY NO. C83-1705

ULYSSES GHOLSON, et al,

Petitioners,

vs.

MILTON A. REID, et al,

Defendants.

OBJECTIONS TO THE EIGHTH REPORT OF WILLIAM MAZEL COMMISSIONER IN CHANCERY

Comes now your defendant, Milton A. Reid, by counsel and files his comments and objections to the above report as follows:

1. That the Commissioner in Chancery refer to page 4, paragraph 2 of his report states as follows:

"With the agreement of both counsels, the Commissioner authorized all attendees to enter the church sanctuary. It was also agreed, that prior to the distribution of the ballots, a roll call will be made wherein each bona fide member would raise his or her hand for identification."

2. That the Commissioner read the role of bona fide members as it was impossible for the Commissioner to determine who the bona fide members were.

3. The Commissioner neither requested identification or even checked their names from the master membership list.

4. It was impossible for the Commissioner to determine whether the people who received ballots were actual bona fide members of New Cavalry Baptist Church.

5. Therefore the integrity of the entire balloting process is questionable.

Your defendants feel that at all times the Commissioner conducted the election with fairness and courtesy. However, the discrepancies in the voting caused prevented this meeting to have a questionable result. Therefore your defendants take exception to his report and request of this Honorable Court that a new church meeting be held using the requisite safeguards to insure a fair and impartial election. The Commissioner in Chancery, Mr. William Mazel, at all times attempted to hold a fair and impartial meeting. However, the procedure for holding such a meeting was not properly established prior to the meeting to insure a fair result. Therefore the end result of the church meeting held on July 9, 1985 resulted in a violation of the doctrine of fundamental fairness. In addition to a basic violation of the doctrine of separation of church and state as provided by the Virginia Constitution and Constitution of the United States of America.

Milton A. Reid
Sonnie G. Cuffey

SONNIE G. CUFFEY
WINSTEAD, JONES & MELVIN, P.C.
Attorneys and Counsellors at Law
601 Dinwiddie Street
Portsmouth, Virginia 23704
(804) 397-1009

CERTIFICATE

I hereby certify that a true copy of the foregoing Objections To The Eighth Report Of William Mazel Commissioner In Chancery was mailed this 22nd day of July, 1985 to Edward Delk, Esquire, Suite 305, 555 Fenchurch Street, Norfolk, Virginia 23510.

/s/ Sonnie G. Cuffey

APPENDIX J

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

IN CHANCERY NO. C83-1705

ULYSSES GHOLSON and
FLOYD LEWIS, et al,

Complainants,

vs.

MILTON R. REID, et al,

Defendants.

O R D E R

This cause came on this day to be heard upon the pleadings duly filed; upon the Decree of Reference to William Mazel, Commissioner in Chancery of this Court, dated October 27, 1983; upon mature consideration of the First through the Seventh Reports of said Commissioner in Chancery previously filed, to which no exceptions were taken; upon mature consideration of the Eighth Report of said Commissioner in Chancery filed on July 12, 1985; upon the objections to the Eighth Report of said Commissioner in Chancery filed on July 22, 1985; upon the mature consideration of the Ninth Report of said Commissioner in Chancery filed July 29, 1985, to which no exceptions were taken, more than ten (10) days having elapsed since said time; upon notice to all parties; and was argued by counsel.

And it appearing to the Court from the evidence heard ore tenus that the Commissioner in Chancery complied with all the orders of the Court; that the notice of the meet-

ing of July 9, 1985 was duly mailed to all members of New Calvary Baptist Church, Norfolk, Virginia whose names appeared on an approved list of members that was agreed to by the attorneys for the parties; that all members whose names appeared on the approved list were permitted to attend said meeting, and all members present at the meeting participated and advocated their views or were given the opportunity to participate and advocate their views; that at said meeting the attorneys for the parties agreed with the Commissioner in Chancery that said Commissioner in Chancery would call the names of each member that appeared on the approved list of members and that the members would identify themselves as members by raising their hands; that the roll call was made from the approved list of the members and that monitors of the meeting, who were agreed to by the attorneys for the parties, gave a ballot to those persons present who identified themselves as members of the church; that upon leaving the meeting each member was given an opportunity to place his or her ballot in ballot boxes that were manned by the monitors; that the ballot boxes containing the ballots were sealed and signed by the Commissioner in Chancery and the attorneys for the parties; that on July 10, 1985 at 8:00 a.m., in the Commissioner's office, by prior agreement with the attorneys for the parties and in the presence of the respective attorneys and representatives from each group, the ballot boxes which were still sealed, were opened; that representatives of each party individually counted the ballots and upon a complete count by one representative, the opposing party counted the ballots as well; that there was no dispute as to the numer of ballots and the vote; that no objections were raised during the

meeting of July 9, 1985 by any members present or by any of the litigants present or by any of the attorneys for the parties to any of the actions of the Commissioner in Chancery; that no objections were raised during the counting of the ballots on July 10, 1985 by any of the representatives of the parties or by any of the attorneys of the parties to any of the actions of the Commissioner in Chancery; that the meeting held on July 9, 1985 was a fair and democratic meeting: that a majority of the members of the congregation of New Calvary Baptist Church, Norfolk, Virgina, present at the meeting held on July 9, 1985, have decided that (1) the Trustee Board of the church is directed to immediately audit the financial records of the church, (2) the services of Dr. Milton A. Reid, as pastor of the church, are immediately terminated, (3) the Trustee Board of the church is placed in charge of the finances of the church in addition to their other duties, (4) Steve Simons is elected to serve as Chairman of the Deacon Board of the church, (5) Edward Davis is elected to serve as Vice Chairman of the Deacon Board of the church, and (6) the present officers and staff of the church are removed; and that the exceptions to the Eighth Report of the Commissioner in Chancery are without substance and that the exceptions to the Eight Report of the Commissioner in Chancery were withdrawn by counsel for the defendants.

NOW, THEREFORE, it is ORDERED, ADJUDGED, and DECREED:

1. That all of the nine reports of the Commissioner in Chancery are ratified, confirmed and approved.

2. That the Eighth Report of the Commissioner in Chancery is hereby expressly ratified, confirmed and approved.

3. That the Trustees of the New Calvery Baptist Church shall pay to William Mazel, Commissioner in Chancery, the sum of $6,400.00 for his services rendered and that this judgment shall be docketed in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia.

4. That the Trustees of New Calvary Baptist Church are awarded a judgment against each of the defendants, MILTON A. REID, BRISCOE BODDIE, KENNETH BELLAMY, ST. PAUL LEWIS and JAMES BRIDGERS in the amount of $6,400.00, jointly and severally, for fees due the Commissioner in Chancery and in the sum of $2,449.96 for costs incurred by the complainants and that this judgment shall be docketed in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia and such other Clerk's Offices as deemed necessary.

ENTER this 19 day of August, 1985.

/s/ Alfred W. Whitehurst, Judge

A COPY, TESTE:

WILLIAM T. RYAN, CLERK
By: /s/ D. Soulerin, D.C.

I ASK FOR THIS:
Edward Delk p.q.
Counsel for Complainants

Seen and Objected To:

Sonnie G. Cuffey p.d.
Counsel for Defendants